

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: MDL Docket No 04-1606 VRW  
DEEP VEIN THROMBOSIS, ORDER

This Document Relates To:

ALL WARSAW CASES

This order relates to Warsaw cases only. In a case management conference held on June 24, 2005, the court scheduled a hearing on summary adjudication of failure to warn claims for December 8, 2005. (Doc #214). It has come to the court's attention that the question of whether a failure to warn constitutes an "accident" for purposes of the Warsaw Convention has been squarely presented to the United States Court of Appeals for the Ninth Circuit. See Opening Brief of Appellants, James v Delta Air Lines, Inc, No 04-55526, at \*23-45 (9th Cir filed Feb 3, 2005) (available on Westlaw 2005 WL 627523); Opposing Brief of Appellee Delta Air Lines, Inc, James v Delta Air Lines, Inc, No 04-55526, at

1 \*13-20 (9th Cir filed Mar 22, 2005) (available on Westlaw 2005 WL  
2 1789789); Reply Brief of Appellants, James v Delta Air Lines, Inc,  
3 No 04-55526, at 26-32 (9th Cir).

4 The court invites the parties to submit concise briefs  
5 addressing whether the hearing on summary judgment in this case  
6 should be vacated pending the Ninth Circuit's holding in James v  
7 Delta Air Lines, Inc. Briefs shall not exceed five pages and shall  
8 be filed with the court no later than September 23, 2005.

9  
10  
11 SO ORDERED.

12   
13 \_\_\_\_\_

14 VAUGHN R WALKER

15 United States District Chief Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28